

Defecox/Immig.

OCA 87-3116
21 July 1987

MEMORANDUM FOR: AA/OSD/OGC
C/OSD/OGC
[] PCS/DO

FROM: [] Legislation Division
Office of Congressional Affairs

SUBJECT: State Draft Amendments to Immigration &
Nationality Act: Categories of Excludable
Aliens

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1. The Office of Management of Budget (OMB) has requested the Agency's views on the attached draft bill amending the Immigration and Nationality Act which was prepared by the Department of State. The bill would amend those portions of the Act which deal with the grounds on which aliens can be excluded.

2. As you may recall, the portions of the Act which deal with the grounds on which an alien can be excluded have been the subject of Congressional interest for the last few years. On the one hand, there has been pressure to repeal the McGovern amendment, the provision which effectively does away with the exclusion of Communist Party members otherwise eligible for immigration. There is also a general feeling that the grounds for exclusion should be brought up to date and concepts such as "public charge" be modified. Finally, in the wake of the action by the State Department to exclude from admission for foreign policy reasons aliens who wished to speak in the United States, proposals have been made to alter State's powers in this area and/or create a cause of action to permit United States' persons to seek judicial review of such decisions.

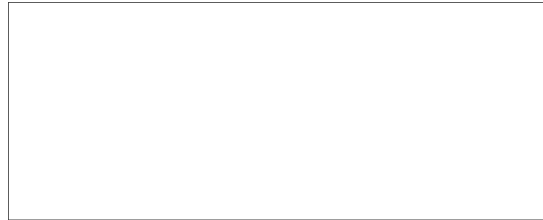
3. While indicating general support for an updating of the law in this area, the Administration and State have been opposed to controversial changes in the grounds for exclusion and, in particular, to the creation of a cause of action.

4. H.R. 1119, a bill amending the Act in this area, contains a number of the proposals to which the Administration is opposed. The State draft bill is the Administration's response to H.R. 1119.

5. OMB has asked for the Agency's comments on the State draft bill by Friday, July 24th. We, therefore, ask for your comments by noon of that date.

6. Under cover of a separate memorandum, we are soliciting your comments on a draft views letter on H.R. 1119 which was solicited some time ago by Chairman Rodino of the House Judiciary Committee.

7. Your cooperation is appreciated.



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Attachment:
as stated

Distribution:

Orig. - Addressees (w/atts)

1 - OCA Registry (w/o atts)

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① - OCA/LEG Subj. File: Defector/Immigration (w/atts)
OCA/LEG [redacted] (21 Jul 87)

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Washington, D.C. 20505

OCA 87-3118

The Honorable Peter W. Rodino
Chairman
Committee on the Judiciary
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I write in response to your request for the Agency's views on H.R. 1119, a bill to amend the Immigration and Nationality Act.

The Agency notes with concern that provision of the bill which would amend existing Section 279 of the Act (8 U.S.C. §1329) so as to allow United States persons to seek judicial review of a decision to exclude an alien on national security grounds. Apart from the merits of this proposal, the Agency is concerned with the potential for disclosure of sensitive information which these suits could create. As the administration of the Act is the responsibility of the Departments of State and Justice, however, the Agency defers to their views on this as well as other provisions in the bill.

We appreciate this opportunity to comment on this item of legislation.

Sincerely,

David D. Gries
Director of Congressional Affairs

DRAFT



**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503**

July 20, 1987

LEGISLATIVE REFERRAL MEMORANDUM

87-3107
SPECIAL

TO: SEE ATTACHED DISTRIBUTION LIST

SUBJECT: Department of State draft bill to amend the Immigration and Nationality Act concerning grounds for exclusion and deportation of aliens.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please provide us with your views no later than July 24, 1987

(NOTE -- This legislation has been drafted in response to a June 23 House Judiciary Immigration subcommittee hearing on H.R. 1119 at which State testified that concerned agencies were working to develop a suitable proposal concerning grounds for excluding aliens.)

Direct your questions to Branden Blum (395-3454), the legislative attorney in this office.


James C. Hurt for
Assistant Director for
Legislative Reference

Enclosure

cc:	A.B. Culvanhouse, Jr.	Tara Treacy	Barry Clendenin	Jim Nix
	Jack Carley	Tracy Davis	Kevin Scheid	
	John Cooney	Robert Fishman	Norine Noonan	

State

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A BILL

To amend the Immigration and Nationality Act.

Be it enacted by the Senate and the House of
Representatives of the United States of America in Congress
assmbled,

Section 1. Section 212(a)(9) of the Immigration and
Nationality Act is amended to read as follows:

Aliens who have been convicted of a crime involving moral turpitude (other than a purely political offense); except that aliens who have committed only one such crime while under the age of eighteen years may be granted a visa and admitted if the crime was committed more than five years prior to the date of application for admission to the United States, unless the crime resulted in confinement in a prison or correctional institution, in which case such alien must have been released from such confinement more than five years prior to the application for a visa or other documentation, and for admission, to the United States. An alien who would be excludable because of the conviction of an offense for which the sentence actually imposed did not exceed a term of imprisonment in excess of six months may be granted a visa and admitted to the United States if otherwise admissible: Provided, That the alien has committed only one such offense

Section 2. Section 212(a)(11) is amended to read as follows:

Aliens who practice polygamy;